IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

WTR No.43 of 1995
Date of decision:5.9.2006

The Commissioner of Wealth Tax, (Central) Ludhiana.

...Petitioner

v.

Shri Ashok Kumar & Sons (HUF), Ludhiana

...Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. S.K.Garg, Advocate, for the petitioner

Mr. Akshay Bhan, Advocate for the respondent.

JUDGMENT:

This order will dispose of WTR Nos.43 of 1995 and 13 of 1996 as both the cases involve same question of law.

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh arising out of its order dated 25.1.1994, RA No.28/Chandi/94, in respect of assessment year 1984-85:-

> "Whether on the facts and in the circumstances of the case, the Income Tax Appelalte Tribunal was right in law in holding that the property received by the assessee on partial partition and accretion thereto belonged to the assessee, HUF and that the value is not includible in his individual assessment?"

It is not disputed by the learned counsel for the parties that the issue stands settled by judgment of this court dated 30.8.2004 in ITR Nos.7 of 1989 (**The Commissioner of Income Tax (Central) Ludhiana v. Sh. Pawan Kant)**. Order of reference itself refers to pendency of the said case in this court.

In ITR No.7 of 1989, this court decided the issue in favour of the assessee and against the revenue by holding that the property received by the assessee on partition of HUF continued to be joint family property in the hands of HUF constituted by the assessee subsequently. Reliance was placed on earlier judgments of this court in **Commissioner of Income Tax V. Bhagat Singh** (1998) 229 ITR 239, of the Patna High Court in C**ommissioner of Income Tax V. Shankar Lal Budhia** (1987) 165 ITR 380 and of the Madhya Pradesh High Court in **Commissioner of Income Tax, MPI v. Krishan Kumar,** (1983) 143 ITR 462.

In view of the above, we answer question in favour of the assessee and against the revenue.

(Adarsh Kumar Goel)
Judge

September 5, 2006
'gs'

(Rajesh Bindal)
Judge